

REMARKS

Claim 24 has been amended. Claims 25-27 have been canceled without prejudice or disclaimer. Claims 22-24 remain pending in this application.

Claim Rejections Under 35 U.S.C. §§ 112

Claim 24 stands rejected under 35 USC §§ 112 in that there is no antecedent basis for the limitation "said supply status" in line 13. Claim 24 has been amended to refer to only "a supple status". It is submitted that claim 24 now meets all the requirements of 35 USC §§ 112.

Claim Rejections Under 35 U.S.C. §§ 103

Claims 22-23 stand rejected under 35 USC 103(a) as being unpatentable over Balisky (USP 6,521,112) in view of Wolozin et al. (USP 6,780,971), as supported by the provisional application (60/219319), in view of Salvo et al. (USP 6,341,271).

Claims 24 stands rejected under 35 USC 103(a) as being unpatentable over Balisky (USP 6,521,112) in view of Wolozin et al. (USP 6,780,971), as supported by the provisional application (60/219319), in view of Salvo et al. (USP 6,341,271) and further in view of Hosomi (US Pat. Pub. No. 2004/0220745).

For the reasons set forth hereafter, it is submitted that claims 22-24 are patentable.

Patentability of the Claims

Claims 22-24 define a method of managing reagents used in analyzer. Thus, the claims call for a method of managing reagents used in an analyzer which comprises the steps of monitoring consumption status of the reagents so as to receive information on the consumption status, analyzing the consumption status of the reagents according to reagent suppliers and the reagents supplied by the reagent suppliers, based on planned information of the consumption status and transmitting the consumption status of the reagents or supply management information thereof to a management unit of the

analyzer or a supply management unit of the reagent suppliers. Claim 24 additionally calls for the step of requesting payment in consideration of the use of the information in monitoring the consumption status and in analyzing the consumption status of the reagents, from an analyzer administrator, the reagent suppliers or the reagent vendor.

Applicants' claims call for monitoring and receiving information on the consumption status of the reagents and then analyzing the consumption status according to reagents suppliers and the reagents supplied by the reagent suppliers based on planned information of the consumption status. In other words, consumption of the reagents is monitored and measured and that information is transmitted to a management unit of the analyzer or a supply management unit of a reagent supplier. Applicants' invention is used in an analyzer installed in a laboratory where clinical laboratory tests are conducted.

The invention as now claimed is neither taught nor rendered obvious by Balisky '112, Wolozin et al. '971, Salvo et al. '271 and Hosomi '745, taken either alone or in combination.

The main reference relied upon by the Examiner, Balisky '112, relates to a method of controlling the content of a chemical bath used in connection with a plating operation such as copper plating as noted in column 14, lines 57-59. This is a far different environment than Applicant's invention directed to a method for managing reagents used in an analyzer which is useful in a laboratory where clinical laboratory tests are conducted. On page 2 of the Action, the Examiner states that Balisky discloses a step of "monitoring consumption status of reagents so as to receive information on said consumption status". The Examiner then refers to a statement in column 1, lines 66-67 of the patent which states "monitoring the consumption of electrical energy by the chemical bath". Monitoring the consumption of electrical energy is not the same as monitoring the consumption of reagents.

Moreover, the Examiner acknowledges on page 3 of the Action that Balisky does not specifically disclose the step of analyzing the consumption status of the reagents according to reagent suppliers and the reagents supplied by the reagent suppliers, based on planned information of the consumption status. To provide this acknowledged

deficiency of Balisky, the Examiner then cites Wolozin et al. '971 at column 11, lines 33-36.

The portion of Wolozin et al., cited by the Examiner states as follows:

"For the lactate dehydrogenase (LDH) assay, by viability following 24 hrs of pharmacological treatment was analyzed using MTS reagent and the Cytox 96 kit (Promega) according to manufacturer's directions".

This portion of Wolozin et al. does not support the Examiner's contention that it discloses the step of analyzing the consumption status of the reagents according to reagent suppliers and the reagents supplied by the reagent suppliers, based on planned information of the consumption status.

The Examiner then goes on to state that the combination of Balisky and Wolozin et al. does not specifically disclose the step of transmitting the consumption status of the reagents or supply management information thereof to a management unit of the analyzer and a supply management unit of a reagent bender for relaying it to the reagent suppliers. To supply this deficiency, the Examiner then cites Salvo et al. '271 and cites column 8, lines 1-4 thereof.

The portion of Salvo et al. cited by the Examiner at column 8, lines 1-4 states as follows:

"The analyzed information provides plant management and vendors with reliable, statistically based recommendations for inventory decisions, manufacturing schedules, and other manufacturing related needs".

Salvo et al., however, is related to a general inventory management system and more particularly to vendor managed inventory systems and methods. No mention is made at all of reagents in Salvo.

By way of summary, Salvo is seen to disclose a control device 114 connected to a product financial information source 155, such that the control device determines the lowest price available for inventory 150. The product financial information source 155 provides information such as spot market price. Accordingly to Salvo, a shipping order can be supplied by selecting the lowest price among suppliers of the consumer goods. Thus Salvo is not at all related to a method of managing reagents used in an analyzer as now claimed by Applicants.

Thus, the three references relied upon by the Examiner in rejecting claims 22 and 23, are directed to different environments than that to which Applicant's invention is directed. Moreover, there is no teaching, suggestion or motivation in any of these three references of combining them in the manner done so by the Examiner. The only thing that is obvious from this combination is that the combination was pieced together with the hindsight of Applicant's invention. Accordingly, it is submitted that claims 22 and 23 patentably distinguish over this combination of references.

In rejecting claim 24, the Examiner relied upon Balisky in view of Wolozin et al., and Salvo and further in view of Hosomi '745. The Examiner acknowledged that Balisky, Wolozin et al. and Salvo do not disclose the step of requesting payment in consideration of use of the information in monitoring the consumption status and in analyzing the consumption status of the reagents, from an analyzer administrator, the reagent suppliers or the reagent vendor. The Examiner then cited Hosomi as providing this teaching, citing paragraph 0040.

Hosomi refers to a measurement instrument and a method for billing a user of a measurement instrument wherein paragraph 0040 indicates that a CPU 3 displays a message on a display unit 4, indicating that a user can use the replaced column to the end by paying an additional charge when it is judged that the information on the guarantee number of measurements should be updated. At best, Hosomi merely teaches that an additional charge may be paid. There is no suggestion in Hosomi of combining its teachings with those of Balisky, Wolozin et al. and Salvo et al. in the manner done so by the Examiner.

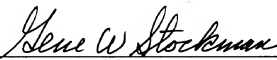
Accordingly, it is submitted that claims 22-24 patentably distinguish over the cited prior art.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants contend that the above-identified application is now in condition for allowance. Accordingly, reconsideration and reexamination are respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. NIP-241).

Respectfully submitted,
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Date: October 31, 2007